

In the United States Court of Federal Claims

NOT FOR PUBLICATION

Nos. 06-433C

(Filed November 7, 2006)

STANLEY A. SLUPKOWSKI,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

Stanley A. Slupkowski, pro se, Butner, North Carolina.

Gregory T. Jaeger, Department of Justice, Washington, D.C., with whom was *Assistant Attorney General Peter D. Keisler*, for Defendant. *David M. Cohen*, Director and *Deborah A. Bynum*, Assistant Director.

OPINION & ORDER

 Futey, Judge.

This *pro se* case comes before the court on Defendant's Motion For Summary Dismissal Of Pro Se Complaint. Defendant argues that plaintiff fails to articulate a claim within the U.S. Court of Federal Claims' ("USCFC") subject matter jurisdiction. Plaintiff's complaint lists civil rights claims against defendant under the Civil Rights Act of 1871, 42 U.S.C. § 1983 (1996) possibly for violations including rights of privacy, procedural due process, life, liberty and property; tort claims under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 (2000) *et seq.* and 28 U.S.C. § 1346 (2000); and requests relief under federal question jurisdiction, 28 U.S.C. § 1331 (1980) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 (1993) *et seq.*

Plaintiff alleges that defendant violated several of his civil rights, including: right to due process of law because the military issued him a "100% Uncooperative Order" without a hearing; right to privacy because it illegally spied on him via

satellite; right to liberty because it forced him to mask his identity; and right to property by unduly depriving him of employment, public education, social security, health and disability insurance.¹ Plaintiff further claims that defendant through several agencies and representatives, physically and emotionally injured plaintiff by harassing him at his places of employment, worship, and entertainment; tortiously interfering with his various familial relationships and friendships; shooting at plaintiff; verbally threatening plaintiff's and plaintiff's family's life and safety; vicariously encouraging plaintiff's foster parents to sexually and physically abuse him; and committing medical malpractice.

Plaintiff requests that this court require a federal district court to enjoin defendant from "alarm[ing], annoy[ing], or harass[ing] plaintiff,"² which includes refraining from assaulting, threatening, spying upon, calling or coming within 1,000 meters of plaintiff. Plaintiff also requests attorney's and court fees and any additional relief as may be proper. Defendant requests summary dismissal to avoid the need for parties to engage in unnecessary additional litigation.

Factual Background

Plaintiff, Stanley Slupkowski, is a U.S. Marine Corps Vietnam veteran and resident patient at the Federal Medical Center in Butner, North Carolina. In a lengthy and nearly incomprehensible narrative, plaintiff describes his numerous theories that defendant allegedly conspired to mask plaintiff's identity and further various hoaxes. The court has culled the following alleged facts from plaintiff's rather inscrutable complaint.

Approximately 60 years ago, plaintiff's foster parents adopted him through an international displaced orphans program. Plaintiff, originally named Leon Kozlowski, apparently adopted the identity of the parents' deceased infant named Stanley Slupkowski. The foster parents maintained custody of plaintiff sporadically

¹ Plaintiff alleges that:
the defendants have caused physical and emotional injury to plaintiff in all listed areas in criminal conspiracy to obstruct life, pursit [*sic*] of happiness, rights and entitlements, medical treatment, numerous attempts upon the life of the plaintiff in combat, in the United States and over seas, cruel, inhuman and unusual punishments, torture, denial of medical services, water, food, and support and comfort to sustaine [*sic*] life.

Compl. at 4.

² ***Compl.*** at 13.

throughout his childhood. Plaintiff accuses his family of sexual improprieties throughout his childhood.

Plaintiff further avers that the U.S. Navy killed his family on October 28, 1973 in Chicago, Illinois. Plaintiff also claims that on February 15, 1983; September 21, 1983; and December 24, 1983, an unidentified individual allegedly shot at plaintiff with a crossbow. On January 24, 1984, the state of California denied plaintiff's application for disability assistance. Associating each of these occurrences with a conspiracy theory, plaintiff told a special agent with the U.S. Federal Bureau of Investigations ("FBI") that someone was trying to kill the President, specific congressmembers, the entire House Ways and Means Committee, and himself. The special agent told plaintiff that the FBI did not get involved with complaints like his.

Plaintiff also maintains that during his extensive military experience, he learned that AIDS does not actually exist, but rather is a government-initiated hoax entitled "Agent Orange" designed to discredit homosexual people and deny them access to medical assistance. Plaintiff asserts that on September 20, 1982, a counter intelligence official named Munsell told him "not to interfere with Agent Orange or AIDS . . . or there will be no safety with friends, family, relations of any sort, church, medical, police or any investigative agency of the government."³ In February 1984, the U.S. Social Security Administration, on behalf of the U.S. Department of Justice, issued a perpetual "100% Uncooperative Order" against plaintiff, which he associates with "Agent Orange."⁴

Discussion

In ruling on a motion to dismiss for lack of subject matter jurisdiction under RCFC 12(b)(1), the court must accept as true the complaint's undisputed factual allegations and construe the facts in the light most favorable to plaintiff. *Papasan v. Allain*, 478 U.S. 265, 283 (1986); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Hamlet v. U.S.*, 873 F.2d 1414, 1416 (Fed.Cir. 1989); *Farmers Grain Co. v. U.S.*, 29 Fed. Cl. 684, 686 (1993). Plaintiff must make only a *prima facie* showing of jurisdictional facts through the submitted material in order to avoid defendant's motion to dismiss. *Raymark Indus., Inc. v. U.S.*, 15 Cl.Ct. 334, 338 (citing *Data Disc., Inc. v. Syst. Tech. Assoc., Inc.*, 557 F.2d 1280, 1285 (9th Cir. 1977)). If the undisputed facts reveal any possible basis on which the non-moving party might prevail, the court must deny the motion. *Scheuer*, 416 U.S. at 236.

³ ***Compl.*** at 8.

⁴ ***Compl.*** at 9.

U.S. courts provide *pro se* plaintiffs more latitude in their pleadings, and do not hold them to the rigid standards and formalities imposed upon parties represented by counsel. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Against this backdrop, this court liberally construes a *pro se* plaintiff's complaint and holds it to "less stringent standards than formal pleadings drafted by lawyers . . ." *Id.* (quoting *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972)). But the court cannot extend this leniency to permit complete abdication of any pleading requirements. *Demes v. U.S.*, 52 Fed.Cl. 365, 372 n.14 (2001) ("[A]lthough the plaintiff is proceeding *pro se*, he still has the burden of establishing jurisdiction.") (citing *Sanders v. U.S.*, 252 F.3d 1329, 1333 (Fed.Cir. 2001)). Plaintiff must still "comply with the applicable rules of procedural and substantive law." *Walsh v U.S.*, 3 Cl.Ct. 539, 541 (1983) (citing *Faretta v. California*, 422 U.S. 806, 835 n.46 (1975)).

Plaintiff alleges tort claims against defendant under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.*, which include harassment, physical and verbal threats to life and safety; vicarious involvement in sexual and physical abuse; and medical malpractice. But "jurisdiction to hear tort claims is exclusively granted to the United States District Court under the Federal Tort Claims Act." *McCauley v. U.S.*, 38 Fed. Cl. 250, 264 (1997), *aff'd*, 152 F.3d 948 (Fed.Cir. 1998), *cert. denied*, 525 U.S. 1032 (1998), *reh'g denied*, 525 U.S. 1173 (1999); *see also* 28 U.S.C. §1346(b); *Wood v. U.S.*, 961 F.2d 195, 197 (Fed.Cir. 1992) ("[D]istrict courts have . . . exclusive jurisdiction over tort claims for any amount if they fall within the Federal Tort Claims Act, §1346(b)."); *Martinez v. U.S.*, 26 Cl.Ct. 1471, 1476 (1992) ("The district courts have exclusive jurisdiction in [Federal Tort Claims Act] actions."), *aff'd*, 11 F.3d 1069 (Fed.Cir. 1993).

This court lacks jurisdiction over any cases sounding in tort. The Tucker Act limits its jurisdiction to "any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort." 28 U.S.C. §1491(a)(2) (2001). "[T]ort cases are outside the jurisdiction of the Court of Federal Claims[.]" *Keene v. U.S.*, 508 U.S. 200, 214 (1993). *See Brown v. U.S.*, 105 F.3d 621, 623 (Fed.Cir. 1997); *Shearin v. U.S.*, 992 F.2d 1195, 1197 (Fed.Cir. 1993); *Whyte v. U.S.*, 59 Fed. Cl. 493, 497 (2004); *Cottrell v. U.S.*, 42 Fed. Cl. 144, 148 (1998). "If the government misconduct alleged was tortious, jurisdiction is not granted the Claims Court under the Tucker Act[.]" *New A. Shipbuilders v. U.S.*, 871 F.2d 1077, 1079 (Fed.Cir. 1989). "The language of the statutes which confer jurisdiction upon the Court of Claims, excludes by the strongest implication demands against the government founded on torts." *Bigby v. U.S.*, 188 U.S. 400, 404 (1903) (quoting *Gibbons v. U.S.*, 75 U.S. 269, 275 (1868)).

The court must deny plaintiff's request for relief under federal question jurisdiction, 28 U.S.C. § 1331, because the court lacks authority to exercise general federal question jurisdiction under this section. *See* 28 U.S.C. § 1331 (“The *district courts* shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” (emphasis added)); *see also Crocker v. U.S.*, 125 F.3d 1475, 1476 (Fed.Cir. 1997) (“Once again, the trial court [USCFC] correctly held that it lacks the general federal question jurisdiction of the district courts.”).

Plaintiff cannot receive relief under the Civil Rights Act of 1871, 42 U.S.C. §§ 1983, *et seq.* from this court, because the district courts have exclusive jurisdiction over claims alleging civil rights violations. *See* 28 U.S.C. § 1343(a) (“The *district court shall* have original jurisdiction of any civil action authorized by law to be commenced by any person . . . [t]o redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.” (emphasis added)); *see also Rogers v. U.S.*, 14 Cl.Ct. 39, 50 (1987), *aff’d*, 861 F.2d 729 (Fed.Cir. 1988) (holding that 28 U.S.C. § 1343 gives exclusive jurisdiction over claims alleging civil rights violations to the district courts).

Plaintiff requests equitable relief under the Declaratory Judgment Act, 28 U.S.C. §§ 2201, *et seq.*, but the USCFC lacks jurisdiction under this act. *See* 28 U.S.C. §§ 2201-2202. Although that statute provides that “any court of the United States” may render a declaratory judgment, the Act does not give this jurisdiction to the USCFC. *See* 28 U.S.C. §§ 2201, *et seq.* *See also Massie v. U.S.*, 226 F.3d 1318, 1321 (Fed.Cir. 2000) (“Except in strictly limited circumstances, there is no provision in the Tucker Act authorizing the Court of Federal Claims to order equitable relief.” (internal citation omitted)); *Nat’l Air Traffic Controllers Ass’n v. U.S.*, 160 F.3d 714, 717 (Fed.Cir. 1998) (affirming that Congress did not intend for the Declaratory Judgment Act to extend the jurisdiction of the United States Court of Federal Claims.)

Conclusion

For the above-stated reasons, Defendant's Motion For Summary Dismissal Of Pro Se Complaint is ALLOWED. The Clerk of the Court is directed to enter a judgment in favor of defendant. No costs.

IT IS SO ORDERED.

BOHDAN A. FUTEY
Judge